



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

JB:JL
F. #2007R00730

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March 6, 2008

The Honorable Nicholas G. Garaufis
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Joseph Agate, et al.
Criminal Case No. 08-76 (NGG)

Dear Judge Garaufis:

The government writes to address the issues raised at the status conferences on February 27 and 28, 2008, with respect to the separation requests for the defendants incarcerated at the Metropolitan Detention Center. The Court directed the government to devise a plan to facilitate the attorney visitation process in order to minimize inconvenience and delay occasioned by the separation requests. The Court also directed the government to assist defense counsel in connection with co-defendant meetings. The Court further directed the government to provide the necessary access to the recorded materials produced in discovery. In consultation with the Marshals Service, the Metropolitan Detention Center and the Queens Detention Facility, the following steps have been taken to address those issues.

I. Introduction

Following the arrests, the government requested that the defendants incarcerated at the Metropolitan Detention Center ("MDC") be separated into the seven general population housing units at that facility. At the status conferences, the government indicated that six defendants were housed in three units in the East Building, and eight defendants were housed in four units in the West Building, with separation requests applicable only to defendants housed in different units.

At the status conferences, defense counsel complained that the separation requests prevented them from meeting with their clients at the same time as an attorney for a separated defendant, thus resulting in inconvenience and delay at the MDC.

II. Attorney Visitation

To address this issue, the Marshals Service has advised that six defendants currently incarcerated at the MDC are being transferred to the Queens Detention Facility. The Queens Detention Facility has advised that the separation requests for those defendants will not apply during attorney visits. As a result, counsel for defendants incarcerated at the Queens Detention Facility will be able to meet with their clients at the same time as an attorney for a separated defendant, without the inconvenience and delay experienced at the MDC.

For those defendants remaining at the MDC, the government has modified its separation requests. The MDC has advised that the defendants remaining at the MDC will be separated into only two groups - one for the East Building and one for the West Building. As a result, counsel for defendants incarcerated at the MDC will be able to meet with their clients at the same time as an attorney for a defendant in the same building, without the inconvenience and delay previously experienced at that facility.

III. Co-Defendant Meetings

The MDC has advised that, with sufficient notice, it will be able to accommodate co-defendant meetings for both incarcerated and non-incarcerated defendants in a visiting room at the MDC. The MDC has advised that while the meetings must be monitored by video, there will be no audio of the meetings. The Marshals Service has advised that it will make arrangements, when necessary, to transport defendants incarcerated at the Queens Detention Facility to the MDC for co-defendant meetings.

The Queens Detention Facility also has advised that, with sufficient notice, it will be able to accommodate co-defendant meetings for the defendants incarcerated at that facility.

IV. Access to Discovery

The government is in the process of providing the recorded materials produced in discovery to the incarcerated defendants. To that end, the government is making multiple copies of the recordings available to the defendants at the MDC and the Queens Detention Facility.

The MDC has advised that each defendant is permitted access to the law library, which has four computers, one day per

week for six hours. In addition, a defendant can request access to the visiting room, which has two computers, everyday from 8:00 a.m. to 11:00 a.m.

The Queens Detention Facility has advised that each defendant is permitted access to the law library, which has two computers, one hour per day everyday of the week. In addition, a defendant can request additional access to the law library.

V. Conclusion

The government will continue to assist defense counsel in resolving any issues in connection with attorney visits, co-defendant meetings, access to discovery and other issues that may arise with respect to the incarcerated defendants.

Respectfully submitted,

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